

Maricopa County Justice Courts, State of Arizona

CASE NUMBER: _____

Plaintiff(s) Name / Address / Phone

Defendant(s) Name / Address / Phone

Attorney for Plaintiff(s) Name / Address / Phone

Attorney for Defendant(s) Name / Address / Phone

☐ **MOTION to VACATE JUDGMENT** ☐ **MOTION TO MODIFY JUDGMENT**
☐ ORAL ARGUMENT REQUESTED ☐ BY AGREEMENT

I am the ☐ Plaintiff ☐ Defendant in this case.

I would like the court to:

On penalty of perjury I state that the foregoing is true and correct.

Date: _____ ☐ Plaintiff ☐ Defendant

I CERTIFY that I mailed / delivered a copy of this MOTION to:

☐ Plaintiff at the above address or ☐ Plaintiff's attorney ☐ Defendant at the above address or ☐ Defendant's attorney

Date: _____ By: _____
☐ Plaintiff ☐ Defendant

NOTICE TO MOVING PARTY: *If the time to appeal the judgment has expired, service by process server or service by any other methods of service provided for service of summons in Rule 4, 4.1, or 4.2 Rules of Civil Procedure, is required. Proof of service must be filed with the court.*

If the time to appeal the judgment has not expired the motion is required to be served by first class mail.

NOTICE TO RESPONDENT: *You have 10 days after service of this motion to file a written response, if you wish to do so. If no response is given, the Court will consider the relief requested and will enter an order without hearing any objection you may have.*



INSTRUCTIONS for FILING and SERVING a MOTION TO VACATE or MODIFY JUDGMENT

CIVIL

FORCIBLE / SPECIAL DETAINER

SMALL CLAIMS

1. **Check one** (1) of the boxes on the form (Vacate or Modify).
2. **Complete** the Motion form. Explain the reason why you feel the judgment should be vacated, set aside or modified. If you defaulted, you must show a blameless defense for your failure to appear. You may attach any supporting documents.
(NOTE: Now is not the time to explain your allegations or defenses of the case – only why the judgment should be vacated or modified).
3. **Sign** the motion form.
4. **Return** the completed form to the court clerk and pay the appropriate filing fee (if applicable).
5. **Serving the Motion** on the other party. The other party must be served with a copy of the motion.

 If the time to appeal the judgment has not expired, the other party may be served by first class mail.

 If the time to appeal the judgment has expired, the other party must be served in the manner provided for service of summons in Rule 4, 4.1 or 4.2 Rules of Civil Procedure. Most generally a licensed process server is used to serve court papers.

 Proof of service must be filed with the court. Your process server is required to file an affidavit with the court stating the date, the time, where and upon who service was made and to provide you with a copy of the affidavit.
6. **If you want to stay enforcement of the judgment** you must post a supersedeas bond(s). The stay becomes effective when the bond(s) is posted. The amount of the supersedeas bond will be set by the court.
7. **The opposing party has ten (10) working days** after service of the motion (or, if expedited, within the time fixed by the Judge) to file a written response. Any response filed must also be served upon you by first class mail. If the opposing party does not file a written response the court will consider the relief requested and enter an appropriate order.
8. **The court will consider** your request and any supporting documentation offered and the opposing party's response, if any.
9. **The court will rule on the motion** either without a hearing, or will set the matter for hearing and oral argument. If a hearing is set the court will notice all parties of the hearing date and you must appear and be prepared to present your argument to the court as to why the judgment should (or should not) be vacated or modified as requested.
10. **The court will mail** a copy of its ruling to all parties.